

**IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,                          )  
  )  
Plaintiff,    )  
  )  
v.   ) CRIMINAL NO. 94-00067-BH  
  )  
STEVEN JONES,                                        )  
  )  
Defendant.   )

**ORDER**

This case is before the Court on defendant's motion (Doc. 303) for modification of his sentence pursuant to 18 U.S.C. § 3582(c)(2) and U.S.S.G. 1B1.10(c)/App. C, Amendment 505, and 28 U.S.C. § 994(o). Defendant's motion also seeks a downward departure pursuant to U.S.S.G. § 5K2.19. Defendant's original sentence was for Life. Upon consideration of the motion and all pertinent portions of the record, the Court concludes and it is therefore **ORDERED** that the motion is due to be and is hereby **DENIED**.

The November 1, 1995 amendment to the sentencing guidelines relied upon by the defendant did indeed direct retroactive application of the Drug Quantity Table (U.S.S.G. § 2D1.1 as amended November 1994) and result in a reduction in defendant's applicable *base offense level* from 42 to 38. This amendment, however, does not alter the Chapter Three Adjustments which were originally and properly applied in this case, namely weapon (+2) and role in the offense (+4). The original adjusted offense level was

therefore calculated at a level 48 but, inasmuch as the highest offense level is level 43, the guideline range corresponding to a total offense level of 43 was used to determine defendant's guideline sentence, pursuant to U.S.S.G. § 5, Part A, Commentary Application Note 2.

Although the amendment upon which defendant relies in the present motion indeed reduces defendant's applicable *base offense level* to 38, the Court must again apply the aforementioned Chapter Three Adjustments, namely weapon (+2) and role in the offense (+4), thus resulting in an amended adjusted offense level of 44. Inasmuch as the highest offense level remains a level 43, the guideline range corresponding to a total offense level of 43 must again be used to determine defendant's guideline sentence. Consequently, the corresponding guideline sentence based on a reduction of defendant's base offense level to 38 remains the same, namely Life. The Court remains satisfied that this sentence is appropriate in this case.

**DONE** this 19<sup>th</sup> day of July, 2006.

s/ W. B. Hand  
SENIOR DISTRICT JUDGE